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**FISCAL IMPACT STATEMENT**

**LS 6844**

**BILL NUMBER:** SB 199

**NOTE PREPARED:** Feb 26, 2007

**BILL AMENDED:** Feb 26, 2007

**SUBJECT:** Unlawful Facilitation of Adoption Services.

**FIRST AUTHOR:** Sen. Miller

**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill specifies that the court may not waive required criminal history checks.

The bill makes it a Class A misdemeanor for a person to receive a fee in exchange for facilitating a surrogate agreement, and provides that the offense may not be committed by the surrogate, an intended parent, or by a physician who provides medical services to a surrogate or intended parent. The bill also permits a party to a surrogate agreement to seek treble damages in a civil action against a person who facilitates a surrogate agreement. It makes other changes.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** *Court Allowed to Waive Supervision Period for Certain Adoptions:* This bill allows a court hearing a petition for adoption of a child to waive the period of supervision if one of the petitioners is a stepparent or grandparent of the child. Under current law, the period of supervision is within the sole discretion of the court. In addition, supervision may be before or after the filing of a petition for adoption, or both.

This provision would affect the Department of Child Services (DCS), the state agency responsible for supervising children prior to and after a petition for adoption is filed. The DCS is not responsible for supervising children adopted through licensed child placing agencies. The DCS reports that children are typically supervised for a minimum of six months after placement with their adoptive family. An adoption petition may be filed at any time after placement is made. This provision would reduce the workload of family case managers employed by the DCS. The number of children adopted by a grandparent or stepparent

is not known. However, it is likely that few children adopted through the DCS are adopted by a stepparent. Actual reductions in workload are indeterminable and would depend on the number of children adopted by a stepparent or grandparent and the length of time required by the court for supervision of an individual child. [Note: Supervision administered prior to the filing of an adoption petition would still be conducted since the court does not become involved until after the petition is filed.]

*Court Allowed to Waive Adoption Report for Certain Adoptions:* Current law requires each appropriate agency to submit to the court a written report of and the agency's investigation recommendation as to the advisability of the adoption not more than 60 days from the date of reference of a petition for adoption.

This bill modifies the aforementioned statutory requirement and allows the court to waive the report if the: (1) child is being adopted by a grandparent or stepparent, (2) period of supervision is waived, and (3) court requires either a county office of DCS or a licensed child placing agency to investigate any matter related to an adoption and report to the court the results of the investigation.

This provision could result in three scenarios:

(A) Should the court waive the report and require the local office of DCS to investigate the adoption and report to the court, no change in workload or expenditures would occur.

(B) Should the court waive a report for which the DCS would under current law be responsible and require a licensed child placing agency to investigate the adoption and report to the court, the DCS family case managers would experience a reduction in workload.

The bill is silent as to whether or not the DCS or the county would be required to reimburse a licensed child placing agency for conducting an investigation and filing a report under this scenario. The DCS is responsible for paying the salary of family case managers who currently conduct investigations; the county is responsible for paying all costs associated with services. Should reimbursement be required, either the DCS or the county would experience an increase in expenditures.

(C) Should the court waive a report for which a licensed child placing agency would under current law be responsible and require the DCS to investigate the adoption and report to the court, the workload of the DCS family case managers would increase.

The bill is silent as to whether or not the DCS or the county would be allowed to charge a fee to a licensed child placing agency for conducting an investigation and filing a report under this scenario. Should a fee be charged, either the DCS or the county would experience an increase in revenues.

**Explanation of State Revenues: Penalty Provision:** The bill makes it a Class A misdemeanor to knowingly or intentionally receive a fee or other consideration, directly or indirectly, in exchange for arranging or facilitating a surrogate agreement. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

*Court Fee Revenue:* The bill allows a party to a surrogate agreement to bring a civil action against a person who commits surrogate facilitation, even if the person has not been prosecuted or convicted of the offense. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in

the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

See also *Explanation of State Expenditures*.

**Explanation of Local Expenditures:** *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

See also *Explanation of State Expenditures*.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

*Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

See also *Explanation of State Expenditures*.

**State Agencies Affected:** Department of Child Services.

**Local Agencies Affected:** Local office of Department of Child Services; Courts; Trial courts, local law enforcement agencies.

**Information Sources:** Department of Child Services.

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